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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE  
7 FLOOR-1, NO. 100  
ROOSEVELT ROAD, SECTION 2  
TAIPEI, 100  
TAIWAN

EXAMINER

RAMPURIA, SATISH

ART UNIT	PAPER NUMBER
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2191

NOTIFICATION DATE	DELIVERY MODE
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12/31/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/600,700	<b>Applicant(s)</b> CHUANG ET AL.	
	<b>Examiner</b> SATISH RAMPURIA	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-17 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-4, 6-17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2191

***Response to Amendment***

1. This action is in response to the RCE filed on 10/19/2009.
2. Claims cancelled by the applicants: 2, 5, 18 and 19
3. Claims amended by the applicants: 1.
4. Claims 1, 3-4, 6-17 and 20-25 are pending.

***Continued Examination Under 37 CFR 1.114***

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/2009 has been entered.

***Response to Arguments***

6. Applicant's arguments filed 10/19/2009 have been fully considered but they are not persuasive.

In response to applicant's arguments that:

Accordingly, it is known from the above that Vincent needs to **obtain the update table from the software server first so as to know the location of the required software components based on the update table**. Compare the application with Vincent, it can be concluded that the structure of the application is different from that of Vincent, in which the application requests the absent updated software version **from other user terminals through broadcasting an inquiry, to other user terminals**, while Vincent obtains the required software components **from software servers or computers based on the update table obtained from the software server**. Since the application starts searching the absent updated software version from the neighboring user terminals in the sub-network, the bandwidth between the user terminals and the server can be saved.

Art Unit: 2191

Based on the above, the Applicant respectfully submits entry of amendments to claim 1 so as to include the distinguishable feature of broadcasting an inquiry in said sub-network in determining whether said plurality of unselected user terminals include any of said absent updated software versions" as claimed in claim 2 and the distinguishable feature of "receiving an inquiry broadcast from said plurality of unselected user terminals by said first client-server structure; and transmitting one of said updated software versions in response to said inquiry broadcast" as claimed in claim 5. Accordingly, it is believed that Vincent, Zhang, and Harrow, alone or in combination, do not disclose distinguishable feature of claim 1, as amended, thus the prima facie case of obviousness has not yet been established. Withdrawal of the rejection of claim 1 and its dependent claims 3-4 and 6-8 is respectfully requested.

Examiner respectfully disagrees. Vincent discloses the methods of computer users to obtain incremental software updates as the upgraded software becomes available. The computer compares the component information and the version information with information specifying the components and versions of the components that are currently installed on the computer. The computer then obtains an update table (as disclosed as list in the applicants specification paragraph [020]) from a software server to identify network locations from which the software components can be obtained. The computer requests the software components not already installed on the computer from the identified network location or locations. The computer also requests from the identified network location or locations the new versions of software components. The processes of updating software components according to the Vincent are client-specific, in that a particular computer is caused to request only those software components and versions thereof that are not already installed on the computer. Thus, the time required to download the software components is minimal (i.e., 'the bandwidth between the user terminals and the server can be saved' as stated above in the applicants arguments), see paragraph [0013-0015].

Art Unit: 2191

Applicants specification discloses that after broadcasting the inquiry the client provides a reference list which includes the IP addresses (i.e., the locations) that updates/file can be acquired from, see applicants specification (paragraph [026-027]).

Vincent discloses that the update table indicates that components A, B, C, D and E are available and that components A, B, C and E are available from software server 160. User computer 110 examines the update table received from software server 160 and extracts the locations of the needed components, which include components D and E (i.e., the required components not yet installed at user computer 110) and component B (i.e., the component having a required version not yet installed at user computer 110). The user computer 110 then requests the required versions of software components B and E from software server 160 and the required version of software component D from the computer 164, see (paragraph [0064]). The updates can be acquired from that is located at one computer, typically a server, on the computer network, or they may be located at various and different computers, see (paragraph [0051]). Thus, as explained above Vincent does disclose broadcasting an inquiry to other user terminals for absent software updates.

Based on the above, it is thus submitted the *prima facie* case of obviousness has been established. Moreover, it is believed that the amalgamation of Zhang, Harrow remedies the deficiency of Vincent as compared with claim 1.

With respect to claims 10 and 17 the arguments are similar to those presented with respect to claim 1 and thus given the same rationale set forth in connection with claim 1 above.

### ***Specification***

Art Unit: 2191

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Peer-to-Peer Software Version Upgrade control System".

### **Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3-4, 7-11, 13-17, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2004/0015953 to Vincent (hereinafter, Vincent) in view of US Patent No. 7,228,539 to Zhang et al. (hereinafter, Zhang).

#### **Per claim 1:**

Vincent discloses:

1. A method of software upgrade control for a system server and a sub-network including a plurality of user terminals, the method comprising the steps of:

(a) providing said system server with a plurality of updated software versions (FIG. 6, elements 160-162, and 164 and paragraph [0055] "server computers 160, 162 and 164 are used to provide updated software components");

(b) selecting one of said plurality of user terminals *to obtain a selected user terminal* (FIG. 2,

Art Unit: 2191

element user computer 110) *and plurality of unselected user terminals* (FIG. 2, element other computer 114a-114c) said selected user terminal having a first client-server structure and a second client-server structure (Fig. 3 and paragraph [0042] “user computer 110 is connected to... communication with network 112...”),

said second client-server structure and said system server communicate with each other in a file transfer protocol (paragraph [0045] “a file from a File Transfer Protocol ("FTP") server, a shared file on another user's computer, a file from another process running on the same computer”),

(c) requesting from said system server a list of said updated software versions (paragraph [0061] “User computer... receives data file... opens the data file and accesses the required component

list included... comparing the component information and the version information with information identifying the software components and versions thereof currently installed at user computer”) that are absent in said selected user terminals by said first client-server structure (paragraph [0014] “The computer requests the software components not already installed on the computer from the identified network location or locations”);

(d) broadcasting an inquiry in said sub-network in determining from the list which of said plurality of unselected user terminals (paragraph [0051] “user computer requests the specific components from the location or locations in step 148. The components that need to be updated may be located at one computer, typically a server, on the computer network, or they may be located at various and different computers (i.e., computers are not selected or computer that are located in sub-network)”) and paragraph [0063] “Once user computer 110 determines (i.e., from the component list) which software components and versions thereof are to be obtained”) in step (b) include any of said absent updated software versions (paragraph [0063] “Once user computer

Art Unit: 2191

110 determines which software components and versions thereof are to be obtained (i.e., absent updated software versions), the user computer performs acts to determine network locations from which it can download the required software components”);

(e) receiving an inquiry broadcast from said plurality of unselected user terminals by said first client-server structure and transmitting said absent updated software versions (paragraph [0064]

" The user computer 110 then requests the required versions of software components B and E from software server 160 and the required version of software component D from the computer 164" [Here software servers 160 and computer 164 are the unselected user terminals in the network]) determined in step (d) to have been included in said plurality of unselected user terminals from said plurality of unselected user terminals in response to said inquiry broadcast by said second client-server structure (paragraph [0064] “User computer 110 examines the update table received from software server 160 and... extracts the locations of the needed components, which include components D and E (i.e., the required components not yet installed at user computer 110) and component B (i.e., the component having a required version not yet installed at the user computer 110... components B and E from software server 160...component D from the computer 164)”);

(f) receiving from said system server those of said absent updated software versions determined (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164”) in step (d) to have not been included in said unselected ones of said plurality of user terminals (paragraph [0051] “The components that need



Art Unit: 2191

to be updated may be located at one computer, typically a server, on the computer network, or they may be located at various and different computers (i.e., computers are not selected)”; and (g) upgrading said selected user terminal with said received absent updated software versions (paragraph [0065] “The user computer 110 installs and configures the required software components when the required software components are received”).

Vincent does not explicitly disclose wherein said first client-server structure and said system server communicate with each other in an *interversión protocol*.

However, Zhang discloses in a computer system wherein said first client-server structure and said system server communicate with each other in an *interversión protocol* (col. 5, lines 1-3 “the conversion rules relate to differences in the format of the messages, or the inter-server communication protocol, provided for in each version of the software”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of wherein said first client-server structure and said system server communicate with each other in an *interversión protocol* as taught by Zhang. The modification would be obvious because of one of ordinary skill in the art would be motivated to have said first client-server structure and said system server communicate with each other in an *interversión protocol* to provide to reduce the downtime during the update procedure as suggested by Zhang (col. 2, lines 28-37).

**Per claim 3:**

The rejection of claim 1 is incorporated and further, Vincent discloses:

Art Unit: 2191

3. The method of claim 1 further comprising the step of registering at said system server after requesting from said system server a list of said plurality of updated software versions that are absent in said selected user terminal (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164”).

Although, Vincent discloses updating software on a user computer from network locations or network computers. Vincent is silent on registering updated software. However, the feature of registering the updated software deemed to be inherent to Vincent system. Since Vincent discloses downloading the requested software updates by the user computer from network locations (paragraph [0063]). Vincent's system would be inoperative if the system does not register the updated software.

**Per claim 4:**

The rejection of claim 1 is incorporated and further, Vincent discloses:

4. The method of claim 1 further comprising the step of providing an agent in said selected user terminal in requesting said list of said absent updated software versions (paragraph [0014] “The computer requests the software components not already installed on the computer from the identified network location or locations”) Note that an agent which requests the absent software is inherent to Vincent, since Vincent's system getting the component not installed on user computer from the network locations.

**Per claim 7:**

Art Unit: 2191

The rejection of claim 1 is incorporated and further, Vincent discloses:

7. The method of claim 1 further comprising the steps of: providing a client in said first client-server structure for requesting said list of said absent updated software versions (paragraph [0061] “User computer... receives data file... opens the data file and accesses the required component list included... comparing the component information and the version information with information identifying the software components and versions thereof currently installed at user computer”).

**Per claim 8:**

The rejection of claim 1 is incorporated and further, Vincent discloses:

8. The method of claim 1 further comprising the steps of: providing said first client-server structure (FIG. 6, element user computer 110 and related discussion) with a first server for receiving an inquiry broadcast by said plurality of unselected user terminals (paragraph [0063] “the network location of the update table may be found in other ways, such as through broadcasting or advertising across computer network”); and providing said second client-server structure (FIG. 6, elements 160, 162, 164) with a second server for transmitting one of said plurality of updated software versions to one of said unselected user terminals in response to said inquiry broadcast (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164” i.e., the required versions are transmitted to user terminals).

**Per claim 9:**

The rejection of claim 1 is incorporated and further, Vincent discloses:

9. The method of claim 1 further comprising the steps of: providing said first client-server structure (FIG. 6, element user computer 110) with a first client for requesting one of said absent updated software versions from said plurality of unselected user terminals (paragraph [0063] “Once user computer 110 determines which software components and versions thereof are to be obtained (i.e., absent updated software versions)... download the required software components”); and providing said second client-server structure (FIG. 6, elements 160, 162, 164) with a second client for requesting one of said absent updated software versions from said system server (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164”).

**Per claim 10:**

Vincent discloses:

10. A software upgrade control system comprising:  
a system server (FIG. 6, element 160, 162, 164);  
a plurality of updated software versions provided at said system server (FIG. 6, elements 160-162, and 164 and paragraph [0055] “server computers 160, 162 and 164 are used to provide updated software components”);

Art Unit: 2191

a sub-network including a first user terminal (FIG. 2, element user computer 110 and related discussion) and a second user terminal (FIG.2, element other computer 114a-114c and related discussion), each of the first user terminal and the second user terminal including a first client-server structure and a second client-server structure (FIG. 3, element 110a and 110b and paragraph [0043] "user computers 110a are directly connected to the Internet, while other user computers 110b use a modem to dial up an Internet Service Provider ("ISP") 122 to access the Internet");

said second client-server structure and said system server communicate with each other in a file transfer protocol (paragraph [0045] "a file from a File Transfer Protocol ("FTP") server, a shared file on another user's computer, a file from another process running on the same computer");

a client provided in said first client-server structure of said first user terminal for requesting from said system server a list of said updated software versions that are absent in said first user terminal (paragraph [0061] "User computer... receives data file... opens the data file and accesses the required component list included... comparing the component information and the version information with information identifying the software components and versions thereof currently installed at user computer") and also for broadcasting an inquiry to the second user terminal (paragraph [0063] "the network location of the update table may be found in other ways, such as through broadcasting or advertising across computer network") to determine whether the second user terminal has at least one of said updated software versions that are absent in said first user terminal (paragraph [0064] "The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the

Art Unit: 2191

required version (i.e., absent) of software component D from the computer 164” i.e., the required versions are transmitted to user terminals);

a first server provided in said first client-server structure of said second user terminal for receiving the inquiry broadcast by the first user terminal (paragraph [0063] “Once user computer 110 determines which software components and versions thereof are to be obtained (i.e., absent updated software versions)... download the required software components”);

a second server provided in said second client-server structure of said second user terminal for transmitting one of said updated software versions to said first user terminal in response to said inquiry broadcast (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164” i.e., the required versions are transmitted to user terminals);

a first client provided in said second client-server structure of said first user terminal for receiving one of said absent updated software versions from said second user terminal (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164”); and

a second client provided in said second client-server structure of said first user terminal for receiving one of said absent updated software versions from said system server (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164”).

Vincent does not explicitly disclose wherein said first client-server structure and said system server communicate with each other in an *interversión protocol*.

However, Zhang discloses in a computer system wherein said first client-server structure and said system server communicate with each other in an *interversión protocol* (col. 5, lines 1-3 “the conversion rules relate to differences in the format of the messages, or the inter-server communication protocol, provided for in each version of the software”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of wherein said first client-server structure and said system server communicate with each other in an *interversión protocol* as taught by Zhang. The modification would be obvious because of one of ordinary skill in the art would be motivated to have said first client-server structure and said system server communicate with each other in an *interversión protocol* to provide to reduce the downtime during the update procedure as suggested by Zhang (col. 2, lines 28-37).

**Per claim 11:**

11. The system of claim 10 further comprising an agent provided in said selected user terminal in requesting said list of said absent updated software versions. The limitations in the claims are similar to those in claim 4, and rejected under the same rationale set forth in connection with the rejection of claim 4.

**Per claim 13:**

Art Unit: 2191

The rejection of claim 10 is incorporated and further, Vincent discloses:

13. The system of claim 10 wherein said system server supports the file transfer protocol (paragraph [0045] “a file from a File Transfer Protocol ("FTP") server, a shared file on another user's computer, a file from another process running on the same computer”).

**Per claim 14:**

The rejection of claim 10 is incorporated and further, Vincent discloses:

14. The system of claim 10 wherein said system server supports the file transfer assistant protocol (paragraph [0045] “a file from a File Transfer Protocol ("FTP") server, a shared file on another user's computer, a file from another process running on the same computer”).

**Per claim 15:**

15. The system of claim 10 further comprising an agent in each of said user terminals for data communication between said first client-server structure and said second client-server structure. The limitations in the claims are similar to those in claim 4, and rejected under the same rationale set forth in connection with the rejection of claim 4.

**Per claim 16:**

The rejection of claim 10 is incorporated and further, Vincent discloses:

16. The system of claim 10 further comprising a local area network over which said system server communicates with each of said user terminals (paragraph [0040] “FIG. 1 include a local area network (LAN) 51 and a wide area network (WAN)”).



Art Unit: 2191

**Per claim 17:**

Vincent discloses:

17. A software upgrade control system, comprising:

a system server that provides updated software versions (FIG. 6, element 160, 162, 164 and related discussion);

a plurality of user terminals grouped to form a sub-network (FIG. 2 element user computer 110 and element other computer 114a-114c and related discussion);

each of said user terminals having a first client-server structure and a second client-server structure (FIG. 3, element 110a and 110b and paragraph [0043] "user computers 110a are directly connected to the Internet, while other user computers 110b use a modem to dial up an Internet Service Provider ("ISP") 122 to access the Internet"), and an agent, wherein said first client-server structure requests from said system server a list of updated software versions that are absent (paragraph [0061] "User computer... receives data file... opens the data file and accesses the required component list included... comparing the component information and the version information with information identifying the software components and versions thereof currently installed at user computer"), broadcasts in said sub-network an inquiry (paragraph [0063] "the network location of the update table may be found in other ways, such as through broadcasting or advertising across computer network") as to whether any other user terminals have any updated software versions absent therein, receives an inquiry broadcasted by said other user terminals (paragraph [0061] "User computer... receives data file... opens the data file and accesses the required component list included... comparing the component information and the

Art Unit: 2191

version information with information identifying the software components and versions thereof currently installed at user computer”);

said second client-server structure transmits one of said updated software versions to one of said other user terminals (paragraph [0064] “The user computer 110 then requests the required versions (i.e., absent) of software components B and E from software server 160 and the required version (i.e., absent) of software component D from the computer 164” i.e., the required versions are transmitted to user terminals), receives an absent updated software version from one of said other user terminals having said absent updated software version, receive an absent updated software version from said system server if no other user terminals has said absent updated software version (paragraph [0063] “Once user computer 110 determines which software components and versions thereof are to be obtained (i.e., absent updated software versions)... download the required software components”); and

communicates with said system servers in a file transfer protocol (paragraph [0045] “a file from a File Transfer Protocol (“FTP”) server, a shared file on another user's computer, a file from another process running on the same computer”); and

said agent handles data communication between said first and second client-server structures (Vincent discloses updating software in networking environment, a communication agent must be present in Vincent system to perform the software update remotely. Therefore, a communication agent would be inherent to Vincent system).

Vincent does not explicitly disclose communicate with said system server in an *intervention protocol*.

Art Unit: 2191

However, Zhang discloses in a computer system communicate with said system server in an *intversion protocol* (col. 5, lines 1-3 “the conversion rules relate to differences in the format of the messages, or the inter-server communication protocol, provided for in each version of the software”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of communicate with said system server in an *intversion protocol* as taught by Zhang. The modification would be obvious because of one of ordinary skill in the art would be motivated to communicate with said system server in an *intversion protocol* to provide to reduce the downtime during the update procedure as suggested by Zhang (col. 2, lines 28-37).

**Claims 21** are the system claim corresponding to system claims 13 and rejected under the same rational set forth in connection with the rejection of claims 13, above, as noted above.

**Per claim 22:**

The rejection of claim 17 is incorporated and further, Vincent discloses:

a first storage for storing said updated software versions (FIG. 6, element 160, 162, 164 and related discussion).

**Per claim 23:**

The rejection of claim 22 is incorporated and further, Vincent discloses:

Art Unit: 2191

a second storage for storing said updated software versions that are unzipped (paragraph [0061] “comparing the component information and the version information with information identifying the software components and versions thereof currently installed at user computer”). Note that Vincent compares the installed versions with the updated version in order to upgrade the software. In order for to compare the installed software versions the upgrade version must be unzipped.

**Per claim 24:**

The rejection of claim 1 is incorporated and further, Vincent discloses:

24. The method of claim 1, wherein said absent updated software versions determined in step(d) to have not been included in said plurality of unselected user terminals are received only after receiving from said plurality of unselected user terminals those of said absent updated software versions determined in step (d) to have been included in said plurality of unselected user terminals (paragraph [0051] “The components that need to be updated may be located at one computer, typically a server, on the computer network, or they may be located at various and different computers (i.e., computers are not selected)”).

10. Claims 6 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of US Publication No. 2003/0074403 to Harrow et al. (hereinafter, Harrow).

**Per claim 6:**

Art Unit: 2191

The rejection of claim 1 is incorporated and further, Vincent does not explicitly disclose wherein said selected user terminal is upgraded within a predetermined time interval.

However, Harrow discloses in an analogous computer system wherein said selected user terminal is upgraded within a predetermined time interval (paragraph [0036] “The directory server 402 may also have an expiration timeout feature. That is, after say 10 minutes, the directory server 402 may direct a client to retrieve a copy of the file from the web server 422”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of wherein said selected user terminal is upgraded within a predetermined time interval as taught by Harrow into the method of updating software to user terminals as taught by Vincent. The modification would be obvious because of one of ordinary skill in the art would be motivated to selected user terminal is upgraded within a predetermined time interval to provide the current updates to client as suggested by Harrow (paragraph [0036]).

**Per claim 25:**

The rejection of claim 10 is incorporated and further, Vincent does not explicitly disclose, wherein said second user terminal transmits said updated software versions to said first user terminal using a P2P protocol.

However, Harrow discloses in an analogous computer system wherein said second user terminal transmits said updated software versions to said first user terminal using a P2P protocol (paragraph [0026] “The communication 314 between Client A 304-A and Client D 304-D is a peer-to-peer communication”).

Art Unit: 2191

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of wherein said second user terminal transmits said updated software versions to said first user terminal using a P2P protocol as taught by Harrow into the method of updating software to user terminals as taught by Vincent. The modification would be obvious because of one of ordinary skill in the art would be motivated to use P2P protocol in upgrading software version of user terminal to provide a peer-to-peer software upgrading to lower the network traffic as suggested by Harrow (paragraph [0004]).

11. Claims 12 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of US Patent No. 7,228,539 to Zhang et al. (hereinafter, Zhang).

**Per claim 12:**

The rejection of claim 10 is incorporated and further, Vincent does not explicitly disclose system server supports an interversion protocol.

However, Zhang discloses in a computer system server support an interversion protocol (col. 5, lines 1-3 “the conversion rules relate to differences in the format of the messages, or the inter-server communication protocol, provided for in each version of the software”).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the method of supporting an interversion protocol as taught by Zhang. The modification would be obvious because of one of ordinary skill in the art would be motivated to support an interversion protocol to provide to reduce the downtime during the update procedure as suggested by Zhang (col. 2, lines 28-37).

Art Unit: 2191

**Claim 20** are the system claim corresponding to system claims 12 and rejected under the same rational set forth in connection with the rejection of claims 12, above, as noted above.

### **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satish Rampuria whose telephone number is (571) 272-3732. The examiner can normally be reached on 8:30 am to 5:00 pm Monday to Friday. Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner, Art Unit 2191

Application/Control Number: 10/600,700

Page 23

Art Unit: 2191

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Examiner, Art Unit 2191